

# MERCHANT & GOULD

## United States Patent Application

### COMBINED DECLARATION AND POWER OF ATTORNEY

• INSTRUCTIONS

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Insert TITLE of invention

The Use of Proteasome Inhibitors for Treating Cancer,  
Inflammation, Autoimmune Disease, Graft Rejection and  
Septic Shock

Check a or b

The specification of which

a. ☐ is attached hereto

b. ☒ was filed on June 29, 1999

If "b" checked, complete

as application serial no. \_\_\_\_\_

and was amended on \_\_\_\_\_ (if applicable)

(in the case of PCT-filed application)

described and claimed in international no. PCT/CA98/01010 filed 29 October 1998

and as amended on N/A (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a). (Reprinted on back side).

I hereby claim foreign priority benefits under Title 35, United States Code, § 19/365 of any foreign application(s) for patent of inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

a. ☐ no such applications have been filed.

b. ☒ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
CA	2,219,867	31 Octobre 1997	
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

For Continuation-in-Part  
(CIP) Applications, complete

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

Revised 1/25/99

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by § 97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;  
or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application:

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

09341009 032599

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute my application, and to transact all business in the Patent and Trademark Office connected herewith:

Albrecht, John W.	Reg. No. 40,481	Gorman, Alan G.	Reg. No. 38,472	Pauly, Daniel M.	Reg. No. 40,123
Anderson, Gregg I.	Reg. No. 38,828	Gould, John D.	Reg. No. 18,223	Phunkett, Theodore	Reg. No. 37,209
Ansemus, Gregory M.	Reg. No. 42,264	Gregson, Richard	Reg. No. 41,804	Pytel, Melissa J.	Reg. No. 37,209
Batzli, Brian H.	Reg. No. 32,960	Gresens, John J.	Reg. No. 33,112	Reich, John C.	Reg. No. 37,703
Beard, John L.	Reg. No. 27,612	Hamre, Curtis B.	Reg. No. 29,165	Reiland, Earl D.	Reg. No. 25,767
Berman, Charles	Reg. No. 29,249	Hillson, Randall A.	Reg. No. 31,838	Rittmaster, Ted R.	Reg. No. 32,933
Black, Bruce	Reg. No. 41,622	Johnston, Scott W.	Reg. No. 39,721	Schmaltz, David G.	Reg. No. 39,828
Blasdel, Thomas L.	Reg. No. 31,329	Kastelic, Joseph M.	Reg. No. 37,160	Schuman, Mark D.	Reg. No. 31,192
Bogucki, Raymond A.	Reg. No. 17,426	Kettelberger, Denise	Reg. No. 33,924	Schumann, Michael D.	Reg. No. 30,422
Bruss, Steven C.	Reg. No. 34,130	Knearl, Homer L.	Reg. No. 21,197	Sebald, Gregory A.	Reg. No. 33,280
Byrne, Linda M.	Reg. No. 32,404	Komanduri, Janaki	Reg. No. 40,684	Skoog, Mark T.	Reg. No. 40,128
Carlson, Alan G.	Reg. No. 25,959	Kowalchuk, Alan W.	Reg. No. 31,535	Soderberg, Richard	Reg. No. P-43,352
Carter, Charles G.	Reg. No. 35,093	Kowalchuk, Katherine M.	Reg. No. 36,848	Sumner, John P.	Reg. No. 29,114
Caspers, Philip P.	Reg. No. 33,227	Kubota, Glenn M.	Reg. No. P-44,192	Summers, John S.	Reg. No. 24,216
Chiapetta, James R.	Reg. No. 39,634	Lacy, Paul A.	Reg. No. 38,946	Teflekson, David K.	Reg. No. 32,314
Clifford, John A.	Reg. No. 30,247	Larson, James A.	Reg. No. 40,443	Trembath, Jon R.	Reg. No. 38,344
Cochran, William W.	Reg. No. 26,652	Lasky, Michael B.	Reg. No. 29,555	Underhill, Albert L.	Reg. No. 27,403
Daignault, Ronald A.	Reg. No. 25,968	Liepa, Mara E.	Reg. No. 40,066	Vandenburgh, J. Derek	Reg. No. 32,179
Daley, Dennis R.	Reg. No. 34,994	Lindquist, Timothy A.	Reg. No. 40,201	Vandenburgh, Anna M.	Reg. No. 39,868
Dalglish, Leslie E.	Reg. No. 40,579	Lynch, David W.	Reg. No. 36,204	Welter, Paul A.	Reg. No. 20,890
Daulton, Julie R.	Reg. No. 36,414	Marschang, Diane L.	Reg. No. 35,600	Whipps, Brian	Reg. No. P-43,261
DeVries Smith, Kate	Reg. No. 42,157	McDaniel, Karen D.	Reg. No. 37,674	Wickham, J. Scot	Reg. No. 41,326
DiPietro, Mark J.	Reg. No. 28,707	McDonald, Daniel W.	Reg. No. 32,044	Williams, Douglas J.	Reg. No. 27,054
Edell, Robert T.	Reg. No. 20,182	McIntyre, Iain A.	Reg. No. 40,327	Witt, Jonelle	Reg. No. 41,980
Epp Ryan, Sandra	Reg. No. 39,667	McKenzie, Denise L.	Reg. No. P-43,790	Wood, Gregory B.	Reg. No. 28,133
Farber, Michael B.	Reg. No. 32,612	Mueller, Douglas P.	Reg. No. 30,300	Wood, William	Reg. No. P-42,236
Funk, Steven R.	Reg. No. 32,830	Nasiedlak, Tyler L.	Reg. No. 40,099	Xu, Min S.	Reg. No. 39,536
Glance, Robert J.	Reg. No. 40,620	Nelson, Albin J.	Reg. No. 28,650		
Golla, Charles E.	Reg. No. 26,896	Parker, Sandra M.	Reg. No. 36,233		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould to the contrary.

Please direct all correspondence in this case to Merchant, Gould, Smith, Edell, Welter & Schmidt at the address indicated below (or if no address is specified, the first address):

- ☒ 3100 Norwest Center, 90 South Seventh Street; Minneapolis, MN 55402-4131 (Telephone No. (612) 332-5300)
- ☐ Independence Plaza, Suite 1400; 1050 17th St.; Denver, CO 80265-0100 (Telephone No. (303) 357-1670)
- ☐ Westwood Gateway II, Suite 400; 11150 Santa Monica Boulevard; Los Angeles, CA 90025-3395 (Telephone No. (310) 445-1140)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Insert FULL name(s) AND address(es) of actual inventor(s)

2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
1	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
2	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
3	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
SIGNATURE OF INVENTOR 201		SIGNATURE OF INVENTOR 202		SIGNATURE OF INVENTOR 203
DATE		DATE		DATE
July 15, 1999		July 15, 1999		

Each inventor must sign & date

Note: No legalization or other witness required

Revised 1/25/99

For Additional Inventors:

☐ Check box and attach sheet with same information, including date and signature.

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY  
STATUS (37 CFR 1.9(f) AND 1.27 (d)) - NONPROFIT ORGANIZATION**

Docket No.  
9555.94-US-WO

Serial No.

Filing Date

Patent No.

Issue Date

29-JUN-1999

Applicant/ **WU, Jiangping and WANG, Xin**  
Patentee:

Invention: **The Use of Proteasome Inhibitors for Treating Cancer, Inflammation, Autoimmune Disease,  
Graft Rejection and Septic Shock**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION: Université de Montréal

ADDRESS OF ORGANIZATION: 2900 Boulevard Édouard-Montpetit
Montréal, Québec
CANADA
H3C 3J7

TYPE OF NONPROFIT ORGANIZATION:

- ☒ University or other Institute of Higher Education
- ☐ Tax Exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3))
- ☐ Nonprofit Scientific or Educational under Statute of State of The United States of America  
Name of State: Citation of Statute:
- ☐ Would Qualify as Tax Exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3)) if Located in The United States of America
- ☐ Would Qualify as Nonprofit Scientific or Educational under Statute of State of The United States of America if Located in The United States of America  
Name of State: Citation of Statute:

I hereby declare that the above-identified nonprofit organization qualifies as a nonprofit organization as defined in 37 C.F.R. 1.9(e) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

- ☐ the specification to be filed herewith.
- ☒ the application identified above.
- ☐ the patent identified above.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention.

If the rights held by the above-identified nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed on the next page and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☐ no such person, concern or organization exists.  
☒ each such person, concern or organization is listed below.

FULL NAME Centre de recherche du Centre hospitalier de l'Université de Montréal  
 ADDRESS Campus Hôtel-Dieu, 3850, rue St-Urbain, Montréal, Québec, CANADA H2W 1T8

☐ Individual ☐ Small Business Concern ☒ Nonprofit Organization

FULL NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Jean Yvon Timothy

TITLE IN ORGANIZATION: Director, Office of Industrial Liaison

ADDRESS OF PERSON SIGNING: 2900 Boulevard Édouard-Montpetit, Montréal, Québec, CANADA H3C 3J7

SIGNATURE:  DATE: July 15, 1999

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY  
STATUS (37 CFR 1.9(f) AND 1.27 (d)) - NONPROFIT ORGANIZATION**

Docket No.  
9555.94-US-WO

Serial No.

Filing Date

29-JUN-1999

Patent No.

Issue Date

Applicant/ **WU, Jiangping and WANG, Xin**  
Patentee:

Invention: **The Use of Proteasome Inhibitors for Treating Cancer, Inflammation, Autoimmune Disease, Graft  
Rejection and Septic Shock**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION: Centre de recherche du Centre Hospitalier the l'Université de Mon tréal

ADDRESS OF ORGANIZATION: Campus Hôtel-Dieu
3850, rue St-Urbain
Montréal, Québec
CANADA H2W 1T8

TYPE OF NONPROFIT ORGANIZATION:

- ☐ University or other Institute of Higher Education
- ☐ Tax Exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3))
- ☐ Nonprofit Scientific or Educational under Statute of State of The United States of America  
Name of State: Citation of Statute:
- ☐ Would Qualify as Tax Exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3)) if Located in The United States of America
- ☒ Would Qualify as Nonprofit Scientific or Educational under Statute of State of The United States of America if Located in The United States of America  
Name of State: Citation of Statute: **Non-profit research center**

I hereby declare that the above-identified nonprofit organization qualifies as a nonprofit organization as defined in 37 C.F.R. 1.9(e) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

- ☐ the specification to be filed herewith.
- ☒ the application identified above.
- ☐ the patent identified above.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention.

If the rights held by the above-identified nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed on the next page and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☐ no such person, concern or organization exists.  
☒ each such person, concern or organization is listed below.

FULL NAME Université de Montréal

ADDRESS 2900 Boulevard Édouard-Montpetit, Montréal, Québec, CANADA H3C 3J7

☐ Individual ☐ Small Business Concern ☒ Nonprofit Organization

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Pavel HAMET

TITLE IN ORGANIZATION: Directeur de la recherche

ADDRESS OF PERSON SIGNING: 3850, rue St-Urbain, Montréal, Québec, CANADA H2W 1T8

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_